

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO OFFICE

KITSAP TENANT SUPPORT SERVICES, INC.

And

Cases 19-CA-108144
19-CA-112388
19-CA-125239
19-CA-128656

WASHINGTON FEDERTION OF STATE
EMPLOYEES, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, COUNCIL 28, ALF-CIO

MOTION TO CLARIFY DECISION

Respondent-Appellee Kitsap Tenant Support Services, Inc., (“Kitsap”) moves to clarify the decision of Administrative Law Judge Sotolongo issued July 28, 2015. In that Decision, the Order at Page 21, ¶1(a)(b), is in conflict with the Appendix “Notice of Employees” attached. (WE WILL NOT implement any changes...including taking disciplinary action...). The provision of the Appendix is in conflict with the Decision and Order. Kitsap seeks clarification.

A telephone conference is requested.

Dated this 11th day of August, 2015.

s/ Gary E. Lofland
WSBA No. 12150
Attorneys for Kitsap Tenant Support Services, Inc.
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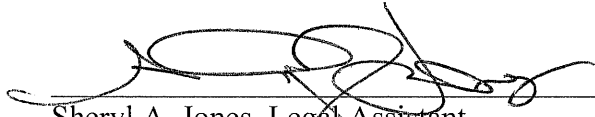
CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

Richard Fiol, Esq.
For the General Counsel

Daniel Hutzenbiler, Esq. / Sanni M-K Lemondidis
Robblee Detwiler & Black, PLLP
For the Charging Party Union

Edward Earl Younglove, III, Esq.
Younglove & Coker, PLLC
For the Charging Party Union



Sheryl A. Jones, Legal Assistant
Meyer, Fluegge & Tenney, P.S.

5. The unfair labor practices of Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

6. Respondent did not otherwise violate the Act as alleged in the consolidated complaint.

Remedy

The appropriate remedy for the 8(a)(5) and (1) violations I have found is an order requiring Respondent to cease and desist from such conduct and take certain affirmative action consistent with the policies and purposes of the Act.

Specifically, Respondent will be required to bargain with the Union with respect to the disciplinary action taken with respect to employees Allegra Waldron, Kendrick Castillo, Tiana Taylor, and Whitney Rolley, and will further be required to bargain with the Union with respect to the granting of the 2012 holiday bonus to bargaining unit employees. I decline the General Counsel's request to recommend any additional remedies (such as reinstatement and/or backpay) with regard to the disciplined employees, as the Board in its invalidated *Alan Ritchey* decision applied its holding only prospectively, for the reasons expressed in that decision. Additionally, Respondent will be required to post a notice to employees assuring them that it will not violate their rights in this or any other related matter in the future. Finally, as Respondent communicates with its employees by email, it shall also be required to distribute the notice to employees in that manner, as well as any other electronic means it customarily uses to communicate with employees.

Accordingly, based on the forgoing findings of fact and conclusions of law, and on the entire record, I issue the following recommended³²

ORDER

Respondent, Kitsap Tenant Support Services, Inc., Bremerton, Washington, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to bargain with Washington Federation of State Employees, American Federation of State, County and Municipal Employees, Council 28, AFL-CIO regarding the disciplinary action taken with respect to employees Allegra Waldron, Kendrick Castillo, Tiana Taylor, and Whitney Rolley.

(b) Failing to bargain with Washington Federation of State Employees, American Federation of State, County and Municipal Employees, Council 28, AFL-CIO regarding the 2012 holiday bonus granted to bargaining unit employees.

³² If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

In recognition of these rights, we hereby notify employees that:

WE WILL NOT refuse to bargain in good faith with Washington Federation of State Employees, American Federation of State, County and Municipal Employees, Council 28, AFL-CIO (the Union) regarding the disciplinary action taken with respect to employees Allegra Waldron, Kendrick Castillo, Tiana Taylor, and Whitney Rolley.

WE WILL NOT refuse to bargain with the Union regarding the granting of the 2012 holiday bonus to bargaining unit employees.

WE WILL NOT implement any changes in the wages, hours, or working conditions of our bargaining unit employees, including taking disciplinary action, without first notifying the Union and giving it an opportunity to bargain.

WE WILL NOT in any like or related matter interfere with, restrain, or coerce you in the exercise of rights listed above.

WE WILL, upon request, bargain with the Union as the exclusive collective-bargaining representative of employees in the following appropriate bargaining unit concerning terms and conditions of employment:

All full-time and regular part-time employees working for us as Direct Service Staff (DSS) or Head of Households (HOHs) in our Intensive Tenant Support Program (ITS) and Direct Service (DSS) working in our Supported Living Lite Program (SL Lite Programs), including such programs in our d/b/a, Olympic Peninsula Supported Living (OPSL) operations, located in or about Kitsap County, Port Angeles, and Port Townsend, Washington; excluding employees working in the Homecare division, Head of Households (HOHs) and Direct Service Staff (DSS) working in the Community Protection Program (CP Program) because they are guards as defined by the Act, and all other guards and supervisors as defined by the Act.

WE WILL, before implementing any changes in wages, hours, or other terms and condition of employment, including taking disciplinary action against employees in the above-described bargaining unit, notify and, on request, bargain with the Union regarding these changes.

KITSAP TENANT SUPPORT SERVICES, INC.

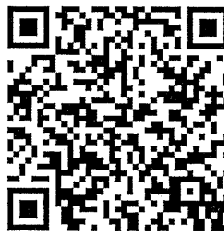
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

915 2nd Avenue, Federal Building, Room 2948
Seattle, Washington 98174-1078
Hours: 8:15 a.m. to 4:45 p.m.
206-220-6300.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/19-CA-108144 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 206-220-6284.